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7 Attorneys for Defendants
DLS TRANSPORTATION INC.;
8 AMERIGO NAAMI

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION – SANTA ANA
12

13 VINCENT K. TYLOR,
14 Plaintiff,

15 v.

16 DLS TRANSPORTATION INC., a
17 California Corporation; AMERIGO
18 NAAMI; and DOES 1 through 10,
19 Defendants.

CASE NO. SACV15-00957 JLS GJS
ANSWER TO COMPLAINT
DEMAND FOR JURY TRIAL

20 COME NOW Defendants DLS TRANSPORTATION INC. and AMERIGO
21 NAAMI (hereinafter “DEFENDANTS”), to herewith answer the Complaint:

22 **I. THE PARTIES**

23 1. Answering Paragraph 1 of Plaintiff’s Complaint, DEFENDANTS are
24 without sufficient knowledge or information to form a belief as to the truth of the
25 allegations contained in said paragraph, and, on that basis, deny the allegations
26 contained therein.

27 2. Answering Paragraph 2 of Plaintiff’s Complaint, DEFENDANTS are
28 without sufficient knowledge or information to form a belief as to the truth of the

1 allegations contained in said paragraph, and, on that basis, deny the allegations
2 contained therein.

3 3. Answering Paragraph 3 of Plaintiff's Complaint, DEFENDANTS are
4 without sufficient knowledge or information to form a belief as to the truth of the
5 allegations contained in said paragraph, and, on that basis, deny the allegations
6 contained therein.

7 4. Answering Paragraph 4 of Plaintiff's Complaint, DEFENDANTS are
8 without sufficient knowledge or information to form a belief as to the truth of the
9 allegations contained in said paragraph, and, on that basis, deny the allegations
10 contained therein.

11 5. Answering Paragraph 5 of Plaintiff's Complaint, DEFENDANTS are
12 without sufficient knowledge or information to form a belief as to the truth of the
13 allegations contained in said paragraph, and, on that basis, deny the allegations
14 contained therein.

15 6. Answering Paragraph 6 of Plaintiff's Complaint, DEFENDANTS are
16 without sufficient knowledge or information to form a belief as to the truth of the
17 allegations contained in said paragraph, and, on that basis, deny the allegations
18 contained therein.

19 7. Answering Paragraph 7 of Plaintiff's Complaint, DEFENDANTS are
20 without sufficient knowledge or information to form a belief as to the truth of the
21 allegations contained in said paragraph, and, on that basis, deny the allegations
22 contained therein.

23 **II. JURISDICTION AND VENUE**

24 8. Answering Paragraph 8 of Plaintiff's Complaint, DEFENDANTS are
25 without sufficient knowledge or information to form a belief as to the truth of the
26 allegations contained in said paragraph, and, on that basis, deny the allegations
27 contained therein.

28 9. Answering Paragraph 9 of Plaintiff's Complaint, DEFENDANTS are

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1 without sufficient knowledge or information to form a belief as to the truth of the
2 allegations contained in said paragraph, and, on that basis, deny the allegations
3 contained therein.

4 10. Answering Paragraph 10 of Plaintiff's Complaint, DEFENDANTS are
5 without sufficient knowledge or information to form a belief as to the truth of the
6 allegations contained in said paragraph, and, on that basis, deny the allegations
7 contained therein.

8 11. Answering Paragraph 11 of Plaintiff's Complaint, DEFENDANTS are
9 without sufficient knowledge or information to form a belief as to the truth of the
10 allegations contained in said paragraph, and, on that basis, deny the allegations
11 contained therein.

12 12. Answering Paragraph 12 of Plaintiff's Complaint, DEFENDANTS are
13 without sufficient knowledge or information to form a belief as to the truth of the
14 allegations contained in said paragraph, and, on that basis, deny the allegations
15 contained therein.

16 13. Answering Paragraph 13 of Plaintiff's Complaint, DEFENDANTS are
17 without sufficient knowledge or information to form a belief as to the truth of the
18 allegations contained in said paragraph, and, on that basis, deny the allegations
19 contained therein.

20 **III. FACTUAL ALLEGATIONS**

21 14. Answering Paragraph 14 of Plaintiff's Complaint, DEFENDANTS are
22 without sufficient knowledge or information to form a belief as to the truth of the
23 allegations contained in said paragraph, and, on that basis, deny the allegations
24 contained therein.

25 15. Answering Paragraph 15 of Plaintiff's Complaint, DEFENDANTS are
26 without sufficient knowledge or information to form a belief as to the truth of the
27 allegations contained in said paragraph, and, on that basis, deny the allegations
28 contained therein.

1 16. Answering Paragraph 16 of Plaintiff's Complaint, DEFENDANTS are
2 without sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained in said paragraph, and, on that basis, deny the allegations
4 contained therein.

5 17. Answering Paragraph 17 of Plaintiff's Complaint, DEFENDANTS are
6 without sufficient knowledge or information to form a belief as to the truth of the
7 allegations contained in said paragraph, and, on that basis, deny the allegations
8 contained therein.

9 18. Answering Paragraph 18 of Plaintiff's Complaint, DEFENDANTS are
10 without sufficient knowledge or information to form a belief as to the truth of the
11 allegations contained in said paragraph, and, on that basis, deny the allegations
12 contained therein.

13 19. Answering Paragraph 19 of Plaintiff's Complaint, DEFENDANTS are
14 without sufficient knowledge or information to form a belief as to the truth of the
15 allegations contained in said paragraph, and, on that basis, deny the allegations
16 contained therein.

17 20. Answering Paragraph 20 of Plaintiff's Complaint, DEFENDANTS are
18 without sufficient knowledge or information to form a belief as to the truth of the
19 allegations contained in said paragraph, and, on that basis, deny the allegations
20 contained therein.

21 21. Answering Paragraph 21 of Plaintiff's Complaint, DEFENDANTS are
22 without sufficient knowledge or information to form a belief as to the truth of the
23 allegations contained in said paragraph, and, on that basis, deny the allegations
24 contained therein.

25 22. Answering Paragraph 22 of Plaintiff's Complaint, DEFENDANTS are
26 without sufficient knowledge or information to form a belief as to the truth of the
27 allegations contained in said paragraph, and, on that basis, deny the allegations
28 contained therein.

1 23. Answering Paragraph 23 of Plaintiff's Complaint, DEFENDANTS are
2 without sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained in said paragraph, and, on that basis, deny the allegations
4 contained therein.

5 24. Answering Paragraph 24 of Plaintiff's Complaint, DEFENDANTS are
6 without sufficient knowledge or information to form a belief as to the truth of the
7 allegations contained in said paragraph, and, on that basis, deny the allegations
8 contained therein.

9 25. Answering Paragraph 25 of Plaintiff's Complaint, DEFENDANTS are
10 without sufficient knowledge or information to form a belief as to the truth of the
11 allegations contained in said paragraph, and, on that basis, deny the allegations
12 contained therein.

13 26. Answering Paragraph 26 of Plaintiff's Complaint, DEFENDANTS are
14 without sufficient knowledge or information to form a belief as to the truth of the
15 allegations contained in said paragraph, and, on that basis, deny the allegations
16 contained therein.

17 27. Answering Paragraph 27 of Plaintiff's Complaint, DEFENDANTS are
18 without sufficient knowledge or information to form a belief as to the truth of the
19 allegations contained in said paragraph, and, on that basis, deny the allegations
20 contained therein.

21 28. Answering Paragraph 28 of Plaintiff's Complaint, DEFENDANTS are
22 without sufficient knowledge or information to form a belief as to the truth of the
23 allegations contained in said paragraph, and, on that basis, deny the allegations
24 contained therein.

25 29. Answering Paragraph 29 of Plaintiff's Complaint, DEFENDANTS are
26 without sufficient knowledge or information to form a belief as to the truth of the
27 allegations contained in said paragraph, and, on that basis, deny the allegations
28 contained therein.

1 30. Answering Paragraph 30 of Plaintiff's Complaint, DEFENDANTS are
2 without sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained in said paragraph, and, on that basis, deny the allegations
4 contained therein.

5 31. Answering Paragraph 31 of Plaintiff's Complaint, DEFENDANTS are
6 without sufficient knowledge or information to form a belief as to the truth of the
7 allegations contained in said paragraph, and, on that basis, deny the allegations
8 contained therein.

9 32. Answering Paragraph 32 of Plaintiff's Complaint, DEFENDANTS are
10 without sufficient knowledge or information to form a belief as to the truth of the
11 allegations contained in said paragraph, and, on that basis, deny the allegations
12 contained therein.

13 33. Answering Paragraph 33 of Plaintiff's Complaint, DEFENDANTS are
14 without sufficient knowledge or information to form a belief as to the truth of the
15 allegations contained in said paragraph, and, on that basis, deny the allegations
16 contained therein.

17 34. Answering Paragraph 34 of Plaintiff's Complaint, DEFENDANTS are
18 without sufficient knowledge or information to form a belief as to the truth of the
19 allegations contained in said paragraph, and, on that basis, deny the allegations
20 contained therein.

21 **IV. COPYRIGHT INFRINGEMENT**
22 **PURSUANT TO 17 U.S.C. §§ 106 AND 501**

23 35. Answering Paragraph 35 of Plaintiff's Complaint, DEFENDANTS
24 incorporate here by reference and reallege their answers to paragraphs 1 through 34
25 of Plaintiff's Complaint.

26 36. Answering Paragraph 36 of Plaintiff's Complaint, DEFENDANTS are
27 without sufficient knowledge or information to form a belief as to the truth of the
28 allegations contained in said paragraph, and, on that basis, deny the allegations

1 contained therein.

2 37. Answering Paragraph 37 of Plaintiff's Complaint, DEFENDANTS are
3 without sufficient knowledge or information to form a belief as to the truth of the
4 allegations contained in said paragraph, and, on that basis, deny the allegations
5 contained therein.

6 38. Answering Paragraph 38 of Plaintiff's Complaint, DEFENDANTS
7 deny the allegations contained therein.

8 39. Answering Paragraph 39 of Plaintiff's Complaint, DEFENDANTS
9 deny the allegations contained therein.

10 40. Answering Paragraph 40 of Plaintiff's Complaint, DEFENDANTS
11 deny the allegations contained therein.

12 41. Answering Paragraph 41 of Plaintiff's Complaint, DEFENDANTS
13 deny the allegations contained therein.

14 42. Answering Paragraph 42 of Plaintiff's Complaint, DEFENDANTS
15 deny the allegations contained therein.

16 43. Answering Paragraph 43 of Plaintiff's Complaint, DEFENDANTS
17 deny the allegations contained therein.

18 44. Answering Paragraph 44 of Plaintiff's Complaint, DEFENDANTS
19 deny the allegations contained therein.

20 45. Answering Paragraph 45 of Plaintiff's Complaint, DEFENDANTS
21 deny the allegations contained therein.

22 **AFFIRMATIVE DEFENSES**

23 1. As for a first, separate and distinct affirmative defense to the
24 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff
25 is barred by the Doctrine of Estoppel.

26 2. As for a second, separate and distinct affirmative defense to the
27 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff
28 is barred by the Doctrine of Unclean Hands.

1 3. As for a third, separate and distinct affirmative defense to the
2 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff
3 has waived any and all claims and is barred and estopped from alleging the matters
4 set forth in the Complaint.

5 4. As for a fourth, separate and distinct affirmative defense to the
6 Complaint, and each and every count therein, DEFENDANTS allege that, at all
7 times and places mentioned herein, Plaintiff failed to mitigate the amount of
8 damages. The damages claimed by Plaintiff could have been mitigated by due
9 diligence on Plaintiff's part or by one acting under similar circumstances. The
10 failure to mitigate is a bar to recovery under the Complaint.

11 5. As for a fifth, separate and distinct affirmative defense to the
12 Complaint, and each and every count therein, DEFENDANTS allege that each of
13 the causes of action set forth in the Complaint is barred by the applicable statute of
14 limitations, including 17 U.S.C § 507.

15 6. As for a sixth, separate and distinct affirmative defense to the
16 Complaint, and each and every count therein, DEFENDANTS allege, on
17 information and belief, that the sole and proximate cause of the acts complained of
18 by Plaintiff were due to the acts and/or omissions of persons and entities other than
19 DEFENDANTS.

20 7. As for a seventh, separate and distinct affirmative defense to the
21 Complaint, and each and every count therein, DEFENDANTS allege that the causes
22 of action set forth in the Complaint are, and each of them is, barred in whole or in
23 part by the privilege of fair competition.

24 8. As for an eighth, separate and distinct affirmative defense to the
25 Complaint, and each and every count therein, DEFENDANTS alleges that Plaintiff
26 was negligent, careless, reckless, or otherwise at fault in and about the matters
27 alleged in the Complaint.

28 9. As for a ninth, separate and distinct affirmative defense to the

1 Complaint, and each and every count therein, DEFENDANTS allege that this Court
2 lacks venue.

3 10. As for a tenth, separate and distinct affirmative defense to the
4 Complaint, and each and every count therein, DEFENDANTS allege that the
5 Copyright Registrations alleged in the Complaint were improperly filed with the
6 United State Copyright Office, if they were filed at all.

7 11. As for an eleventh, separate and distinct affirmative defense to the
8 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff
9 is barred by the Doctrine of Laches as Plaintiff has known about these answering
10 DEFENDANTS and their activities for several years and has known about the
11 works available to the public at large for many years prior to this time.

12 12. As for a twelfth, separate and distinct affirmative defense to the
13 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff's
14 claims are barred as the works in question are in the public domain and have lost
15 any copyright protection that they might have had.

16 13. As for a thirteenth, separate and distinct affirmative defense to the
17 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff's
18 claims are barred by the First Sale Doctrine.

19 14. As for a fourteenth, separate and distinct affirmative defense to the
20 Complaint, and each and every count therein, DEFENDANTS allege that their
21 actions fall within the Fair Use Doctrine, thereby invalidating the cause of action
22 set forth in the Complaint.

23 15. As for a fifteenth, separate and distinct affirmative defense to the
24 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff
25 has abandoned its alleged rights in the works.

26 16. As for a sixteenth, separate and distinct affirmative defense to the
27 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff
28 is barred by the Doctrine of Innocent Intent and that these answering

1 DEFENDANTS acted with innocent intent in the actions which were taken with
 2 respect to the works in question and made reasonable efforts to ensure that they
 3 were not required to obtain additional “permission” to use any of the alleged
 4 copyrighted works set forth in the Complaint.

5 17. As for a seventeenth, separate and distinct affirmative defense to the
 6 Complaint, and each and every count therein, DEFENDANTS allege that Plaintiff
 7 is barred by the Doctrine of Waiver as a result of his conduct as described herein.

8 18. As for an eighteenth, separate and distinct affirmative defense to the
 9 Complaint, and each and every count therein, DEFENDANTS allege Plaintiff’s
 10 claims fail as the alleged copyright is invalid.

11 19. As for a nineteenth, separate and distinct affirmative defense to the
 12 Complaint, and each and every count therein, DEFENDANTS state that they are
 13 informed and believe, and upon such basis allege, that Plaintiff has not obtained any
 14 grant of rights from the copyright owner of the work(s) in question in this matter or
 15 third parties have superior rights to said work(s) and that Plaintiff lacks standing.

16 20. As for a twentieth, separate and distinct affirmative defense to the
 17 Complaint, and each and every count therein, DEFENDANTS allege Plaintiff has
 18 not complied with the statutory formalities of either the Copyright Act of 1909 or
 19 the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

20 21. As for a twenty-first, separate and distinct affirmative defense to the
 21 Complaint, and each and every count therein, DEFENDANTS allege that, due to
 22 the timing of Plaintiff’s purported registration of its alleged copyrights, he is barred
 23 from claiming or receiving attorney’s fees and statutory damages under 17 U.S.C.
 24 § 412.

25 22. As for a twenty-second, separate and distinct affirmative defense to the
 26 Complaint, and each and every count therein, DEFENDANTS allege that they have
 27 no control over some of the allegedly infringing conduct which is allegedly
 28 occurring on third-party Web sites over which DEFENDANTS have no control.

1 WHEREFORE, these answering DEFENDANTS pray for judgment as
2 follows:

- 3 1. That Plaintiff's request for damages is denied.
- 4 2. That Plaintiff's request for injunctive relief is denied;
- 5 3. For reasonable attorney's fees and costs of suit incurred therein; and
- 6 4. For such other and further relief as the Court deems proper.

7 Dated: September 18, 2015

TINGLEY LAW GROUP, PC

9 By: /s/ Kevin W. Isaacson
10 KEVIN W. ISAACSON
11 Attorneys for Defendants
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DEMAND FOR JURY TRIAL

DEFENDANTS hereby demand a jury trial as provided by Rule 38(a) of the Federal Rules of Court.

Dated: September 18, 2015

TINGLEY LAW GROUP, PC

By: /s/ Kevin W. Isaacson

KEVIN W. ISAACSON
Attorneys for Defendants